

REMARKS

This amendment is in response to the Official Action dated July 31, 2008. Claims 1-2, 4, and 6-10 have been amended, no claims have been canceled, and no claims have been added; as such, claims 1-10 are now pending in this application. Claims 1 and 6-10 are independent claims. Reconsideration and allowance is requested in view of the claim amendments and the following remarks. Support for the amended claims can be found, for example, in paragraphs [0045-0047] of the specification. These amendments add no new matter.

35 USC § 112, 2nd ¶ Rejections

Claims 4, 8, and 10 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Applicant believes the USPTO has rejected these claims for reciting numerous limitations lacking antecedent basis. Appropriate corrections have been made to these claims as well as claims 1-2, 6-7 and 9. As such, Applicant respectfully requests that the rejection of the claims be withdrawn.

35 USC § 101 Rejections

Claim 9-10 have been rejected under 35 U.S.C. § 101 based upon the allegation that the claimed invention is directed to non-statutory subject matter, particularly a software application.

Applicant appreciates the Examiner's attention to the claims in this regard, and has modified these claims to recite computer-related article of manufacture claims, which are clearly a properly recited statutory category of invention.

Applicant respectfully requests the rejection of the claims under 35 U.S.C § 101 be withdrawn.

35 USC § 103 Rejections

Claims 1, 3-4 and 7-10 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Ogino (US 5,633,976, hereinafter referred to as "Ogino '976") in view of Brandon (US

5,951,646, hereinafter referred to as “Brandon ‘976”) in further view of Okada et al (US 5,754,241, hereinafter referred to as “Okada ‘241”). Applicant respectfully traverses this rejection.

Claim 1 recites: *[a] record control apparatus comprising:*

a buffer for storing moving image data belonging to a chapter,

storage size detecting means for detecting that the moving image data stored in the buffer increases in size beyond a first size which is a size of a moving image object other than a final moving image object and then reaches a second size which is a size of a moving image object for a seamless connection,

final data detecting means for detecting that a final moving image data belonging to the chapter is stored in the buffer, and

moving image object output means for retrieving a portion of the moving image data, stored in the buffer, corresponding to the first size from the head of the moving image data, and outputting the portion of the moving image data as the moving image object if it is detected that the moving image data stored in the buffer reaches the second size over the first size, and retrieving a whole moving image data stored in the buffer and outputting the retrieved moving image data as a moving image object if it is detected that the final moving image data belonging to the chapter is stored in the buffer.

These claimed features are neither disclosed nor suggested by Ogino ‘976. Ogino ‘976 provides an image recording apparatus and an electronic still camera capable of effectively using buffer memory and so the photographer does not lose the opportunity of phototaking. More particularly, the temporary memory means capable of storing image information comprises a continuous recoding stop means for stopping the recording of the input image information when the capacity of the temporary memory is equal to or less than a first threshold value. Ogino ‘976 discloses a continuous recording stop means for reducing the rate of the continuous recording operation when the capacity of the temporary memory is equal or less than a second threshold value smaller than the first threshold and a continuous recording stop means for stopping the continuous

recording when a predetermined number of continuously recorded images are reached. Once the continuous recording stop means is stopped, the photographer can affect recording by the single shot mode. In essence, Ogino '976 discloses a system control circuit that enables a continuous recording operation or a single shot operation when the capacity of the temporary memory reaches equal to or less than a first threshold, reduces the rate of the continuous recording operation when the capacity of the temporary memory reaches a second threshold less than the first threshold, and stops the continuous recording operation when a certain number of images are recorded. By contrast, claim 3 discloses a means for performing seamless connections between chapters of a image moving object.

Ogino '976 thus fails to disclose or even suggest *“a buffer for storing moving image data belonging to a chapter,”* let alone a *“storage size detecting means for detecting that the moving image data stored in the buffer increases in size beyond a first size which is a size of a moving object except a final moving image object and then reaches a second size which is a size of a moving image object for seamless connection.”* The Office Action alleges these claimed features can be found in col. 4, lines 45-48. This is wholly inaccurate. This section of Ogino '976 discusses a system control circuit that checks whether the remaining capacity of the buffer memory is at least equal to a predetermined threshold value “V1”. Certainly Ogino '976 does not disclose or even suggest a buffer for storing moving image data of a chapter and detecting when the buffer increase in size beyond a second size which is used for seamless connection. Ogino '976 merely discloses a means for regulating the recording operation of a camera between a continuous operation and a single shot operation.

Furthermore, the Office action admits Ogino '976 does not disclose or even suggest *“final data detecting means for detecting that a final moving image data belonging to the chapter is stored in the buffer,”* but alleges that Brandon '976 remedies these deficiencies. Not only does Brandon '976 not remedy this deficiency, the various features recited above are also absent from Brandon '976. For example, Applicant's claimed features of a *“storage size detecting means for detecting that the moving image data stored in the buffer increases in size beyond a first size which is a size of a moving object except a final moving image object and then reaches a second size*

which is a size of a moving image object for seamless connection,” are neither disclosed nor suggested by Brandon ‘976.

Brandon ‘976 discloses a processing system that allows images and sound to be interleaved into a unified data stream and allows processing of the unified stream. By interleaving the sound data and image data, Brandon ‘976 discloses an efficient deliver means of the interleaved data over a common channel. Clearly, Brandon ‘976 does not suggest or disclose a buffer for storing moving image data of a chapter and detecting when the buffer increase in size beyond a second size which is used for seamless connection.

Nevertheless, the Office Action alleges Brandon ‘976 discloses a *“final data detecting means for detecting that a final moving image data belonging to the chapter is stored in the buffer,”* in col. 5, lines 31-45. This section of Brandon ‘976 suggests a prestart backlog which is the amount of data that is sufficient to allow safe operation of a sound player and is used to provide a buffer after which the playing can occur. The EOF indication simply starts the operation of the sound player, even if the stored data amount is not equal to the prestart backlog. It does not detect a final moving image data belonging to a chapter.

Further, the Office Action admits the combination of Ogino ‘976 and Brandon ‘976 fails to disclose a *“moving image object output means for retrieving a portion of the moving image data, stored in the buffer, corresponding to the first size from the head of the moving image data, and outputting the portion of the moving image data as a moving image object if it is detected that the moving image data stored in the buffer reaches the second size over the first size, and retrieving a whole moving image data stored in the buffer and outputting the retrieved moving image data as a moving image object if it is detected that the final moving image data belonging to the chapter is stored in the buffer,”* but alleges Okada ‘241 remedies these deficiency. It does not.

Okada ‘241 suggests a decoder that decoder video data that is stored in a buffer. In particular, the decoder is capable of preventing the buffer form overflowing and/or underflowing. It determines whether an amount of data stored in the bit buffer exceeds a threshold value. A value which the maximum amount that can be safely stored in the buffer. If the threshold value is

reached, the incoming video bit stream is skipped, thereby preventing overflow problems. If the video bit stream is not streaming fast enough, it reduces the amount of information stored in the buffer, thereby preventing underflow issues. Applicant respectfully submits this has nothing to do with the features claimed by the Applicant, which relate to adjusting the size of video data for seamless connection between chapters.

The three-way combination thus fails to present a prima facie case of obviousness, as the combination fails to collectively disclose the features recited in the independent claims 1 and 7-10, let alone the additional features recited in dependent claims 3-4. Applicant also notes that the offered combination appears to be a failed attempt to reconstruct the claimed invention in hindsight, as there is no basis to combine the phototaking operation of Ogino '976 with the means for creating a unified stream of image and sound data of Brandon '976 with the decoding means of Okada '241.

Accordingly, Applicant respectfully requests that the rejection of claims 1, 3-4 and 7-10 under 35 U.S.C. § 103(a) as unpatentable over Ogino '976 in view of Brandon '976 and further in view of Okada '241 be withdrawn.

Claim 2 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over "Ogino '976 in view of Brandon '976 in further view of Okada '241 in further view of Shikunami (US 6,718,121, hereinafter referred to as "Shikunami '121")". Applicant respectfully traverses this rejection.

Claims 2 depend from and thus incorporate the features of claims 1, which are neither disclosed nor suggested by Ogino '976 in view of Brandon '976 and further in view of Okada '241, for the reasons stated above.

Shikunami '121 does not remedy the deficiencies of Ogino '976 in view of Brandon '976 and further in view of Okada '241, as the various features recited above are also absent from Shikunami '121. For example, Applicant's claimed features of "*a buffer for storing moving image data belonging to a chapter,*" let alone a "*storage size detecting means for detecting that the moving image data stored in the buffer increases in size beyond a first size which is a size of a moving*

object except a final moving image object and then reaches a second size which is a size of a moving image object for seamless connection,” are neither disclosed nor suggested by Shikunami ‘121.

Shikunami ‘121 discloses a video disk recorder that compresses a video signal contained in a television signal at a predetermined compression rate and records it onto an optical disk. The signal is compressed by a variable rate encoder, and then recoded onto an optical disk. The recorder has a means for weighing the received compressed signals for importance and controls the compression rate in compliance with the weight.

Since even a combination of the relied upon references would still fail to yield the claimed invention, Applicant submits that a prima facie case of obviousness for claim 1 has not been presented. Applicant also notes that the offered combination appears to be a failed attempt to reconstruct the claimed invention in hindsight, as there is no basis to combine recording means of Shikunami ‘121 with the phototaking operation of Ogino ‘976 with the means for creating a unified stream of image and sound data of Brandon ‘976 with the decoding means of Okada ‘241.

Accordingly, Applicant respectfully requests that the rejection of claims 32 under 35 U.S.C. § 103(a) as being anticipated over being unpatentable over Ogino ‘976 in view of Brandon ‘976 further in view of Okada ‘241 and further in view of Shikunami ‘121 be withdrawn.

Conclusion

In view of the above amendment and remarks, applicants believe the pending application is in condition for allowance.

This response is believed to be a complete response to the Office Action. However, Applicants reserve the right to set forth further arguments supporting the patentability of their claims, including the separate patentability of the dependent claims not explicitly addressed herein, in future papers. Further, for any instances in which the Examiner took Official Notice in the Office Action, Applicants expressly do not acquiesce to the taking of Official Notice, and respectfully

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request that the Examiner provide an affidavit to support the Official Notice taken in the next Office Action, as required by 37 CFR 1.104(d)(2) and MPEP § 2144.03.

Applicants believe no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 18-0013, under Order No. SON-3124 from which the undersigned is authorized to draw.

Dated: November 21, 2008

Respectfully submitted,

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